IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

WP(C).No. 24411 of 2007(F)

PETITIONER:

V. SADANANDAN, AGED 59 YEARS,
S/O. K.VISWAMBARAN, GIRIJA SADAN, TC.11/1556-1,
DEVASWOM BOARD JUNCTION, CLIFF HOUSE ROAD,
KAWDIAR P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.AJITH KRISHNAN

RESPONDENTS:
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1. **THE STATE OF KERALA,**
   REP. BY SECRETARY TO PUBLIC WORKS DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE CHIEF ENGINEER,**
   BUILDINGS AND LOCAL WORKS, P.W.D.,
   THIRUVANANTHAPURAM.

3. **THE SUPERINTENDING ENGINEER,**
   BUILDINGS AND LOCAL WORKS, P.W.D. SOUTH CIRCLE,
   THIRUVANANTHAPURAM.

4. **THE EXECUTIVE ENGINEER,**
   BUILDINGS DIVISION, P.W.D.,THIRUVANANTHAPURAM.

5. **THE ASSISTANT EXECUTIVE ENGINEER,**
   MAINTENANCE SUB DIVISION, P.W.D.,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. M.R. SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.24411/2007 F

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE LETTER NO.BSC.1586/07/D2 DTD. 30/03/1997 ADDRESSING THE 2ND RESPONDENT.**

EXT.P2: **COPY OF THE LETTER NO.BSC-1799/07/D2 DTD. 23/04/2007 ADDRESSING THE 2ND RESPONDENT.**

EXT.P3: **COPY OF THE LETTER NO.BSC-1996/07/D9 DTD. 7/05/2007 ADDRESSING THE 2ND RESPONDENT.**

EXT.P4: **COPY OF THE ORDER NO.CE/BL/TVM/3540/07 DTD. 16/06/207 OF THE 2ND RESPONDENT.**

EXT.P5: **COPY OF THE ORDER NO.CE/BL/TVM/4166/07 DTD. 16/06/2007 OF THE 2ND RESPONDENT.**

EXT.P6: **COPY OF THE ORDER NO.CE/BL/TVM/4604/07 DTD. 16/06/2007 OF THE 2ND RESPONDENT.**

EXT.P7: **COPY OF THE ORDER NO.CE/BL/TVM/1183/07 DTD. 15/06/2007 OF THE 2ND RESPONDENT.**

EXT.P8: **COPY OF THE ORDER NO.CE/BL/TVM/1214/07 DTD. 15/06/2007 OF THE 2ND RESPONDENT.**

EXT.P9: **COPY OF THE ORDER NO.CE/BL/TVM/1143/07 DTD. 15/06/207 OF THE 2ND RESPONDENT.**

/TRUE COPY/

P.S.TO JUDGE

KSS

ANTONY DOMINIC, J.

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W.P.(C) No. 24411 OF 2007 F

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Dated this the 12th December, 2007

J U D G M E N T

The prayer in this writ petition is to direct the 2nd respondent to sanction the bill amounts for the 3 works undertaken by the petitioner as per Exts. P1 to P3 at his quoted rate of 20% above the estimate rate. Three work orders were issued to the petitioner as per Exts. P4 to P6. It is evident that the department had accepted the quotation of the petitioner at 20% above the estimate rate. Though sanction of the estimate was sought for, without awaiting for the same the petitioner was made to execute the work as well. However, after executing the work, when he submitted his final bill approval to Exts. P1 to P3 has been conveyed by the Chief Engineer by Exts. P4 to P6 without escalation resulting in the petitioner loosing 20% of the value in each of the work orders.

2. Though the respondents have filed a counter affidavit there is absolutely no explanation forthcoming as to why such reduction has been made. Respondents have explained the desirability of

calling for open tender system has not been adopted in this case.

3. It may be true as contended by the respondents that open tender system is the desirable method, but then, in this case, respondents themselves have adopted the quotation system and after accepting the rate quoted by the petitioner made him to execute the work as well. It is still thereafter that unilateral reduction has been made by the Chief Engineer from the agreed rates. This, in my view is totally impermissible. Therefore, the petitioner is to be held to be entitled for the rates agreed by him and accepted by the respondents in Exts. P1 to P3 and on that basis the bills have to be settled.

4. If it is the case of the respondent that as a result of giving 20% escalation to the petitioner by Exts. P1 to P3, loss has been caused due to the misconduct on the part of the officers, it is for the respondents to fix the responsibility on such erring officers and not to attempt to deprive the petitioner of the dues which he is entitled to.

Writ petition is disposed of as above.

ANTONY DOMINIC
JUDGE

jan/-